

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BENJAMIN VANFOSSAN,

Plaintiff,

v.

ARNEL DE LOS SANTOS, et al.,

Defendants.

Case No. 1:20-cv-00173-DAD-EPG

ORDER GRANTING MOTION TO MODIFY
THE SCHEDULING ORDER

(ECF No. 59)

Plaintiff Benjamin VanFossan is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983. This matter is before the Court on Defendants' motion to modify the scheduling order. (ECF No. 59). Citing the parties' pending cross-motions for summary judgment on the issue of exhaustion, Defendants ask the Court to extend the non-expert discovery and dispositive-motion deadlines by ninety days, or, alternatively, to stay discovery until the summary judgment motions are resolved.

As grounds, the motion states that new defense counsel has been assigned to the case and notes that this case will proceed against at least two Defendants, Amaya and Huerta, with both parties agreeing that Plaintiff exhausted his administrative remedies against them, and that additional time will be needed for counsel to "familiarize himself with Plaintiff's allegations, research possible defenses, communicate further with Plaintiff regarding possibility of settlement, conduct discovery, and prepare a dispositive motion." (*Id.* at 4).

Given that the non-expert and dispositive-motion deadlines are set to expire soon, the Court will grant a ninety-day extension of the non-expert and dispositive-motion deadlines.

1 However, given that the summary judgment motion does not concern all pending claims,
2 and because delay until resolution of that motion may prejudice the pending claims, the Court
3 denies the request to stay the case until resolution of the pending summary judgment motion.

4 Accordingly, IT IS ORDERED as follows:

- 5 1. Defendants' motion to modify the scheduling order (ECF No. 59) is granted in
6 part;
- 7 2. The scheduling order (ECF No. 41) is modified as follows:
 - 8 a. The January 28, 2022 non-expert discovery deadline, is reset for April 28,
9 2022; and
 - 10 b. The February 28, 2022 dispositive-motion deadline is reset for May 30,
11 2022.¹

12
13 IT IS SO ORDERED.

14 Dated: **January 25, 2022**

/s/ Eric P. Gray
15 UNITED STATES MAGISTRATE JUDGE

16
17
18
19
20
21
22
23
24
25
26
27
28 ¹ Defendants requested an extension to May 29, 2022, but this day is a Sunday.